Save San Francisco Bay Association
Environmental Defense Fund
Natural Resources Defense Council
The Bay Institute
Friends of the River
Marin Audubon Society
Golden Gate Audubon Society
California Sportfishing Protection Alliance
Surfrider Foundation
Environmental Law Foundation

March 3, 1998

Lester Snow
CALFED Bay-Delta Program
1416 Ninth Street
Sacramento, CA 95814

RE: BDAC Work Group Assurances Proposal

Dear Lester:

This letter contains the comments of the Environmental Water Caucus representatives listed below with regard to: (1) the current draft assurances proposal and (2) the draft assurances research project. We consider assurances to be central to the success of the entire CALFED effort. In our view, the draft proposal fails to address many critical issues, particularly with regard to the ecosystem restoration element of the CALFED program. This letter reiterates and expands upon comments made by EWC members at the assurances work group for the past nine months.

I DRAFT ECOSYSTEM RESTORATION ASSURANCES PROPOSAL

The current "assurances" proposal (the December 1997 and February 1998 iterations) is a skeleton, purporting to outline a comprehensive package covering all aspects of the CALFED program. Notwithstanding the laudable efforts of CALFED staff and the work group, the draft falls substantially short of its task and fails to provide a framework for an assurances program. It is instead, as indicated at the work group meeting on February 24, an implementation strategy. Implementing the CALFED program is not the same thing as attempting to provide "assurances" that the program will meet its objectives.

The staff and work group have identified the major assurance issues around the ecosystem restoration element -- in particular the concern that legal assurances tend to break down given sufficient time and political pressure. However, the proposal does not seriously grapple with these

issues and provides little insight into how they might be resolved: How can water necessary for ecosystem restoration be guaranteed? How can we ensure that operations will not conflict with or cause harm to species and habitats? To what extent can sufficient funding for restoration be guaranteed? What remedies are available in the event that the program is not adequately implemented? The current draft does not address these hard questions.

We recognize that absolute guarantees that the CALFED program will achieve all of its promises under all circumstances may not be attainable. Nevertheless, the purpose of an "assurances" package is to set forth mechanisms that provide a high degree of confidence that the program's substantive goals will be met. It should be a strategy that attempts to assure outcomes. The distinction between merely implementing a plan and providing assurances of meeting program objectives is a critical one -- particularly for the ecosystem restoration element which will rely on thousands of discretionary decisions over a long period of time. It is ·o imagine the ERPP being "implemented" with little ecosystem recovery actually occurring · :e need only look at the Columbia River experience discussed below. Mere implementation of a plan, without regard to expected performance, is far less likely to result in achievement of the plan's objectives than an assurance strategy that is focused on performance.

Strikingly, although it lists "tools" and "management structures" and "guidelines," the current draft fails to set forth the basic assurance mechanisms necessary to guarantee that the ecosystem restoration element of the CALFED proposal will be implemented so as to achieve its goals.

For example, under the Ecosystem Restoration section, the draft indicates that there will be some sort of HCP. But what does this have to do with "assuring" that the ERPP will be appropriately implemented? A Habitat Conservation Plan under the ESA is a mitigation measure allowing for harm to species or habitats by some kind of human activity. It is an assurance mechanism for a development interest that its operations will not be disturbed by "surprises." It may or may not be linked with actual protection of habitats or recovery of species. Conversely, "assurances" that endangered species in the CALFED study area will enjoy full recovery and long-term sustainability are: (1) the continued existence and enforcement of the federal ESA and the state CESA; (2) listing of jeopardized species in the Bay-Delta system; and (3) sufficiently aggressive restoration and recovery strategies.

Another example of the proposal's focus on implementation instead of assurances is the limited discussion about funding. Although there is agreement that funding is a key element of the assurances necessary for the ecosystem program, the draft fails to make this point and merely identifies currently existing pots of money and recommends merging them. How does this "assure" that sufficient funds will be available to carry out the ERPP?

We recommend that the assurance proposal be revised to include the following:

Assurance Mechanisms for the Ecosystem Restoration Element

1. Strong ERPP with measurable performance standards
2. Legal mandate(s) to achieve performance standards
3. Institution dedicated to program implementation with sufficient authority
4. Water
5. Funding
6. Enforcement of baseline environmental statutes
7. Physical constraints on new water development facilities
8. Controls on water project operations
9. Phasing/linkages of other program elements to the progress of the ecosystem element
10. Remedies

Some of these assurances have been discussed at length in the work group, such as the establishment of a new institution. Some are the province of other work groups, such as the development of the ERPP and performance measures. Other elements have not yet received the serious attention required to formulate a viable assurance package for the ecosystem program. In our view, the "assurances" discussion requires clear articulation of the ten assurance mechanisms listed above, and further requires specific proposals for putting such assurances into place.

The single assurance mechanism that has been addressed in substantial detail is the proposal for a new institution to oversee the restoration program. We agree that this is a necessary and even critical element of the package; but it is not, as the draft seems to suggest, a sufficient one. The establishment of a new institution to implement the ERPP is not in itself a guarantee that the program will be adequately implemented.

Our specific comments and recommendations are below.

1. **Strong ERPP/Conservation Strategy with Performance Standards**

The assurance challenge with regard to ecosystem restoration is two-sided:

(a) Ensure that appropriate restoration occurs; and
(b) Ensure that facilities create no new ecological harm.

Thus, on the one hand, CALFED must craft a program to restore natural functions, habitats and species that have been radically altered, degraded and depleted over a long period of time. On the other hand, it must simultaneously craft a program to avoid (or mitigate) new harm to these resources that may be caused by water facilities (and other CALFED program elements). In our view, these tasks -- affirmative restoration and impact mitigation -- are one and the same and should be part of a fully integrated, self-mitigating restoration plan.

C-013041

However, until recently, CALFED seemed to be moving toward an approach that addressed the affirmative restoration program (the ERPP) and the impact mitigation program (the HCP) as somewhat distinct. CALFED is now moving toward a comprehensive "conservation strategy" bringing these two perspectives together in a single program. While we have not seen this new strategy, we concur with the initial description provided to EWC that the mitigation responsibilities should be built upon, and be additive to, the affirmative restoration program. We will refrain from offering any other comment until the conservation strategy has been made available for review. In general, however, this appears to be a more productive approach to the interdependent issues of restoration/recovery and mitigation.

A prerequisite for satisfactory ecological recovery and protection is a high quality plan. Our comments on the draft ERPP have been provided previously to CALFED and we will not repeat them here. The sufficiency of the plan's implementation cannot be gauged without meaningful performance standards. The assurances package should be structured to ensure the achievement of substantive performance standards for the ecosystem restoration plan.

The draft assurances proposal does not reflect the considerable discussion and agreement within the Ecosystem Restoration Work Group about the need for clear performance standards as part of the ERPP. While the establishment of such standards is beyond the scope of the assurances work group, it is essential that they are part of the ERPP. Success should be measured by improvements in the health of the ecosystem. If the ERPP (and the adaptive management program in particular) guarantees only that money and effort will be expended, but fails to identify the environmental improvements that must be accomplished, the efficacy of the entire program is in question.

Performance should be defined by a combination of the ERPP "performance objectives" and a set of ecological indicators that are expected to be achieved in a specified time frame. These objectives and indicators should include defined numerical ranges. Time frames for achieving differing objectives will necessarily vary among objectives and indicators. We recommend that time frames be assigned according to the amount of time that experts anticipate will elapse before the system shows a measurable response to the restoration actions. For example, it may be useful to determine which performance measures are capable of detecting changes at the two-year, five-year, ten-year, and twenty-year intervals from the time the ERPP implementation begins. Where performance measures are not being met, the assurances package should provide for remedial action within a time certain.

We recommend that the ecosystem plan establish measurable performance objectives that can serve as the focus for the assurances proposal. It may be useful to convene an inter-work group committee (ecosystem restoration and assurances) to develop a specific proposal with regard to performance measures. An analogous effort should be undertaken for each of the common programs.

2. <u>Legal Mandate(s) To Achieve Performance Objectives</u>

Measurable performance standards for the ecosystem program will not be self-executing if they are simply part of a planning document. Achieving these standards must be a central part of the mandate of whatever institution is tasked to implement the ERPP. Achievement of the ecosystem performance standards must also be linked to the provision of other CALFED benefits. (See "phasing/linkages" below.) Such a mandate can come in many forms -- from incorporation in an informal agreement between existing agencies or part of the legal directive from state and federal agencies to a new institution. We believe that whatever agencies or institutions carry out the ERPP, their obligation to attempt to achieve the performance standards should come in the form of a legislative directive to ensure the highest degree of confidence that they will be achieved. (See "remedies" below.)

Having made this recommendation it is not our proposal (or our intent) that the implementing institutions be locked into an irrevocable set of rigid legislative enactments. We believe that it is entirely possible to craft legislation establishing that the attainment of the performance objectives is a legal requisite while providing substantial flexibility for dealing with contingencies and the vagaries inherent in an adaptive management situation. However, without a substantial commitment to the attainment of the performance objectives for ecosystem restoration in some form, it cannot be said with any confidence that implementation of the ecosystem program can be "assured," let alone guaranteed.

The draft proposal touches on the issue of commitment to implementation of the CALFED programs in the "program-wide assurances" section. The draft explores only two options -- an informal agreement modeled after the Bay-Delta Accord and an implementation plan. We have previously commented that the Accord model is not easily transferred from a relatively limited set of agreements to a massive program with thousands of assurance and implementation issues and details. While an implementation plan is a more flexible tool for devising a strategy and identifying issues for resolution, such a plan does not constitute a mandate or commitment to implement.

In addition to setting forth an implementation strategy, we recommend that the assurances package explore a range of options available for formalizing a mandate to achieve the ecosystem performance objectives described above, including specifically federal and state legislation.

3. Implementation Institution

This is the one element of the assurances package that has received considerable analysis in the work group. Our comments address: (1) need for a new institution; (2) scope of authority; (3) powers; (4) type of institution; (5) governance; and (6) independent review.

Need for a New Institution. The draft appropriately identifies a range of institutional alternatives. In our view, there is little question that some type of new institutional arrangement is essential if the ecosystem restoration program is to have any change of success for at least three reasons. First, as in other parts of the country, the current highly degraded state of the Bay-Delta

estuary has been caused in part by the fragmented system of jurisdiction over the affected region and its natural resources. "Coordinating" among more than a dozen state and federal agencies is never going to be as efficient or effective as simply consolidating responsibility for implementing the program in a single place. Second, the job calls for a regional entity rather than a purely state or federal one. Third, the type of authority required to adequately implement the ecosystem program transcends the current jurisdictional boundaries of any one existing agency.

Scope of Authority. The draft states that a new entity would have responsibility for implementing the ERPP and managing environmental water. In addition, the implementing institution should have a major role in governing the operations of the state and federal water projects, at least insofar as potential conflicts with the ecosystem and the ERPP are concerned. (See "controls on project operations" below.)

Powers of the Institution. A weak institution without real power to carry out its job would be unacceptable. Yet the current draft fails to identify how the new entity would procure either the funds or water necessary to carry out the ecosystem program. (See "funding" and "water" below.) In addition, although various assurance proposal drafts have referred in passing to the ability of the entity to acquire and hold water rights, this concept has not been thoroughly examined in the assurance proposals to date. California does not yet recognize a right to instream flows other than through the transfer provisions of the Water Code. This is a limited and awkward device on which to premise the entire ability of an institution to acquire environmental water. The draft also implies that the entity would obtain an appropriative right to newly developed water. We recommended that the draft be revised to include a substantial analysis of the options available for a new entity to hold long-term rights to environmental water, including the establishment of an instream water right.

Public/Private Institution. The draft assumes that a new institution would be a public agency. This may ultimately prove to be the most effective model, but we recommend that the draft be revised to explore other options as well, including quasi-public entities such as a public corporation or private entities such as a non-profit or a trust. These institutions have certain advantages over public agencies that at the very least should be aired for public discussion.

Governance. The draft posits a governing structure for a new institution limited to the CALFED agencies. This is troubling for several reasons. First, it represents a significant imbalance in the broader program. If the water project operators are going to govern the ecosystem recovery program, then the ecosystem managers should govern the operation of the water projects. Second, while it will be difficult to remove political influences from the governing body of the ecosystem entity, this organization should be run by individuals devoted to the mandate of ecosystem restoration and recovery to the maximum extent possible. This may include agency representatives, but it may also include non-governmental individuals as well. Indeed, if there is an overall CALFED supervising body (as has been proposed), it may not be necessary or desirable to have any governmental representation on the governing board. We recommend that the draft be revised to reflect a range of governance options for a new institution

including a board dominated by those with an ecological orientation.

Independent Review. Ongoing scientific judgment must be exercised: (1) to oversee the efficacy of the adaptive management in achieving the performance standards; (2) to interpret the quantitative data (e.g., what does it mean when some indicators go up and others go down?); and (3) to recommend changes in ERPP performance standards and indicators based on new scientific understanding. The judgment required for these tasks must come from an independent science body to avoid politicization of what must be a strictly scientific exercise. For this reason, we concur with the recommendation of the ecosystem restoration work group that such a panel be formed as part of the new institution, and that it be charged with responsibility for at least the tasks listed above, and to provide an annual assessment of the ERPP's progress in achieving the performance standards.

4. Water

Water for the environment is a central element in assuring the effective and successful implementation of the ERPP. However, the draft assurance proposal makes little effort to address how to assure the requisite environmental water. Moreover, it appears to adopt a very limited and wholly inadequate view of the water that will be necessary for restoration purposes identifying only the need for new supplies to meet unspecified "minimum flow standards."[1] The draft assumes that any other water needed for environmental purposes will be obtained exclusively through water markets. Finally, it assumes that funding will be available to purchase such water and that the implementing entity will be have the appropriate authority to hold such water.

As discussed above, a key omission from the draft proposal is discussion of how the implementing entity will hold water rights or otherwise control the availability of water for the environment. The importance of this issue cannot be overstated, particularly in light of the immense difficulties in implementing the CVPIA mandate to dedicate 800,000 acre-feet of CVP water to the environment. Regardless of the merits of that dispute, it is clear that assigning water to the environment involves a host of complex issues.

While we agree that there is substantial merit to exploring the potential of a vigorous water transfer market, this option alone -- without guaranteed baseline flows -- is unlikely to be sufficient to assure that water for the environment will be available when and where and in the quantities necessary to fully implement the ERPP and meet the appropriate performance standards. The proposal should discuss the potential and the limits of water transfers to provide the requisite environmental water and the extent to which such reliance is an appropriate

---

[1] This is in part a problem in the ERPP itself which fails to provide an analysis of the flows deemed essential to achieve restoration. We have previously commented on the inadequate discussion of flows in the draft ERPP. For purposes of developing an assurances proposal, it must be assumed that environmental water is part of the mix and the task for this portion of the EIS/R is to ensure that such water -- in whatever quantity -- is available for the environment.

"assurance."

We recommend that the assurance proposal address the non-market provision of environmental water so that adequate baseline flows can be assured. Appropriate mechanisms in this regard include, but are not limited to: (1) water quality standards and accompanying water rights; and (2) assignment of CVP and/or SWP water to the ERPP implementing entity.

5. Funding

Even a brief review of the draft indicates that one of the central assurance mechanisms for the ecosystem program is a steady, protected stream of funding. Virtually the entire program hangs on the ability of the implementing entity -- whatever it is -- to spend large amounts of discretionary fund on restoration projects, on research, on monitoring, and perhaps most importantly in water markets. Yet the assurance proposal contains virtually no analysis of this issue notwithstanding our having raised it on many occasions. Reliance on the capriciousness of state and federal appropriations is not an "assurance" of any kind. While some funds have been procured through state bonds and federal authorizations, they are by no means certain. The federal appropriation was somewhat over 50% of the authorization for fiscal year 1998 and appropriations in future years are entirely uncertain. Proposition 204 funds are highly contingent on a political process and there is substantial question about whether such funds will ever become available.

We recommend that the draft be revised to analyze funding scenarios for each of the program elements, e.g., reliance on annual federal and state appropriations, user fees, G.O. bonds, etc., from an assurances perspective and assess the extent to which funding for the ecosystem program can or cannot be "assured."

6. Enforcement of Baseline Environmental Statutes

The draft assurances proposal does not address the issue of the environmental regulatory baseline or its relationship to the question of how to assure the success of the ecosystem restoration element of the CALFED plan. As we have said on many occasions, maintenance of the environmental baseline is an essential assurance for the CALFED program. In our view, this baseline includes environmental protection statutes that exist and are enforceable in the absence of the CALFED effort including but not limited to the federal Clean Water Act (and its state analogue the Porter-Cologne Act), federal and state endangered species statutes, the CVPIA, and safe drinking water statutes.

These laws establish requirements for water quality standards, dedicate a specified amount of CVP water for environmental use, establish funds for habitat restoration and water acquisition, and provide safety-net protections for species that have been severely stressed. The CALFED program can succeed only if this basic bedrock is in place and functioning. For example, full implementation of legally defensible CWA water quality standards is fundamental to assuring the

success of the ERPP.[2] Ensuring the integrity of the environmental baseline is particularly critical in light of recent efforts to erode that foundation. These efforts include but are not limited to:(1) amendments to the ESA; (2) cuts to the CVPIA restoration fund; and (3) proposals to weaken current water quality standards.

The most potent assurance mechanism available to protect endangered species in the CALFED planning area would be federal and state listing of those species currently eligible under the legal standard, such as spring run Chinook salmon, longfin smelt, Sacramento splittail and others.[3] Such listings would elevate the attention given to the ecosystem functions and habitats relevant to the continued survival of those species in both the ERPP and the developing conservation strategy. Listing also provides the public with legal options in the event that the ERPP and conservation strategies fail to perform as required. (See "remedies" below.)

The other advantage, from an assurances perspective, of listing jeopardized Bay-Delta species is that such listings must be taken into greater account in the operation of water projects, and other facilities, that can adversely affect the ecosystem restoration effort. If the ERPP and conservation strategy are well-designed and fully integrated with the water reliability and other CALFED program elements, the actions necessary to restore habitat and to avoid further or new harm to such species will be in place. Of course, this outcome may occur even without the added impetus of new listings; nevertheless, this legal incentive makes the likelihood of the plan's sufficiency that much greater.

7. **Physical Constraints**

In our view, the current proposal does not does not come close to assuring that operational criteria for reservoirs and conveyance facilities will survive as intended, and we are skeptical that such criteria can be fully "assured" over the long term. For example, storage constructed ostensibly for the limited purpose of capturing "surplus water" in very wet years is likely over time to be employed to divert ever more water out of rivers and streams necessary for environmental health. There is no legal arrangement or agreement that will not break down given sufficient political pressure over time.

The assurance proposal has touched on this issue at various points but has not really

---

[2] Prior versions of the assurance draft have included the proposal that the integrity of the water quality standards could be assured by an agreement for the water projects to "indemnify" the environmental entity with water and/or money if water quality standards are relaxed. The status of this proposal in the current draft is unclear. Moreover, considerable additional detail is required to flesh out this concept.

[3] Spring run salmon is a candidate species under the state endangered species statute and has recently been proposed for listing under the federal law. Federal listing petitions for longfin smelt, Sacramento splittail and other Delta dependant species are pending.

analyzed its implications for the development of the preferred alternative. We recommend that the assurances proposal be revised to examine: (1) the extent to which the operation of new facilities can be "assured," particularly using a system of automatic defaults (see "phasing and linkages" below); and (2) whether the assurance issues inherent in physical limits on new facilities are appropriately considered in the development of the preferred alterative.

8. Controls on Project Operations

As discussed above, the ecosystem restoration objectives can be assured only through a two-pronged approach that weds affirmative restoration actions with protections against harm that could be caused by new program elements, water project operations in particular. A key assurance mechanism must include controls over the storage and conveyance components of the state and federal water projects. The assurance work group has addressed this issue in a limited fashion and has in the past proposed specifying the operational rules for facilities in bond language. The current draft proposal does not include controls on project operations as an assurance mechanism for the ecosystem program.

In our view, such controls are key to a successful ERPP and conservation strategy. Such controls can take several forms:

First, a basic "ecosystem-friendly" operations plan should be crafted that establishes protection of natural processes, functions, habitats and species as a key factor in project operations.

Second, the current "Ops Group" and "No Name Group" should be replaced by a new committee to oversee operations and address conflicts between the ERPP/conservation strategy implementation and project operations as they occur. The new environmental entity should convene this committee.

Third, as indicated above (see "governance"), if the environmental authority is to be governed in part by water user/development interests, the governance structure for the federal and state water projects should be revamped to include substantial control by environmental interests. It is essential that the assurance package provide a basic level of parity in the governance of the water management and ecosystem restoration authorities.

We recommend that the assurances proposal be revised to explore these three recommendations.

9. Phasing and Linkages

The current phasing plan does little more than establish a schedule for implementation. It does not function as an assurance mechanism weaving together the various commitments of the CALFED program in a mutually dependant manner. We recommend that the phasing plan be

revised in accordance with the following principles:

A. · Irreversible commitments benefitting one group should be linked to irreversible commitments that benefit others. For example, funding and permitting for a specific new storage facility should be linked to deed restrictions protecting a certain amount of previously unprotected habitat from alternative uses. To explore appropriate linkanges and craft a phasing plan that is more than a schedule, it would be useful to lay out each piece of the performance package (including performance standards for each of the common programs) and determine at least the following:

(1) What is the time frame for completion of this implementation task?
(2) Are there any interim milestones that will be completed in less time?
(3) How reversible is this piece of the solution?

Other issues will be relevant to this analysis as well.

B. The phasing program should tie smooth implementation of components that can be disrupted to the benefits of all parties. For example, if the ecosystem restoration program depends upon a functioning water market and the ability to transport purchased water, then some significant component of water user supply also should be dependant upon the a functioning water market and the ability to transport purchased water. In this way the temptations of parties to undermine the advances of different program elements may be lessened.

C. Ensure that blocking implementation of any portion of the CALFED package is not in the interest of any party. A system of "mutually assured defaults" should be built into the implementation strategy so that failure to achieve the results specified in the performance package in the specified time frame would have known consequences that are less desirable to all parties than achieving such results. As currently proposed, there appears to be no barrier to one part of the program proceeding even if others are stymied. For example, what would occur if federal and state governments refuse to implement or fund portions of the ERPP? The current proposal does not appear to limit the ability of water user benefits to go forward in such a situation. Mechanisms must be put into place that make all program elements inter-dependant, particularly with regard to program funding.

D. Provide "certainty" to parties in a manner inversely proportional to the elapsed time. For example, a "no surprises" policy that is limited in scope and application might be appropriate during a five year period for certain actions, but the commitments included would become less certain at the ten, fifteen and twenty year points.

E. To the extent that much of the assurance package is based on institutional fixes, these should be put into place before other commitments are fulfilled. The current phasing plan seems to move in this direction calling for legislation prior to the construction of new facilities. However, as discussed above, default mechanisms are required to ensure that institutions are fully

functioning and funded before major new facilities are constructed.

10. Remedies

We are all hopeful that CALFED succeeds, that the Program staff develops a long-term plan acceptable to all constituencies, that the plan is fully funded and implemented, and that all of the pieces move forward together in harmony. Nevertheless, it is essential that the public have remedies available to it if all other assurances strategies fail. This is particularly true for the ecosystem program which is inherently dependant upon thousands of discretionary actions, and contains a high degree of uncertainty.

Remedies can include existing tools such as citizen enforcement under the ESA if the plans fail to protect listed species (this is why it is key that all eligible species are listed). However, new remedies should be made available as well. For example, we should consider enabling legal action in the event that the ERPP/conservation strategy performance standards are not met or if projects violate the terms of the operating rules intended to benefit the environment.

We realize that such proposals are likely to be controversial. Nevertheless, we believe that the system must contain fail-safes to discourage defaults in program expectations as well as to provide relief. Such measures can be crafted in a limited way that makes them available only when the circumstances warrant. We recommend that the draft assurance proposal be revised to address the issue of remedies.

II DRAFT ASSURANCES RESEARCH REPORT

The draft report is a very useful document and long overdue in the CALFED process. Many in the conservation community have requested that the agencies take a hard look at how ecosystem conflicts have been addressed in other parts of the country. In addition to the case studies contained in the report, we recommend that CALFED look at the operation of the Exxon Valdez Restoration Trust Fund and the programmatic difficulties that have been faced by the salmon recovery program in the Columbia River Basin. The Columbia River offers the most disturbing parallel to the Bay-Delta conundrum because over the last decade or so about $1 billion has been spent on a salmon program that is now widely admitted to be a failure. We offer two recommendations for expansion and revision to the report.

A. Put Lessons In Context

The primary flaw in the draft is that it does not draw clear distinctions between, or parallels to, the Bay-Delta situation in each of the case studies. This limits the extent to which lessons can be taken from these other programs. For example, based on the information provided, the Everglades seems to provide the closest problem analog to the Bay-Delta of the three situations described, while the Chesapeake appears to be the most distinct.

The Everglades involves, roughly, long-term degradation of a large natural resource caused largely by certain agricultural practices and government water projects that produce important social and economic benefits regionally at the expense of radical changes in ecosystem functions. It also involves contentious stakeholders, a history of litigation, and federal and state political and legislative action before the parties were able to come together in an implementation mode.

By contrast, the problems confronting the Chesapeake do not appear to have been as divisive -- there seems to have been a high degree of consensus among the players regarding the value and urgency of protecting the natural resources at issue and no single economic or governmental interest that was invested in a set of practices inherently in conflict with such protection. The largest problem faced by the Chesapeake example is inter-state coordination -- a factor that does not exist in the Bay-Delta scenario.

This is not to say that the lessons from the Chesapeake or Columbia River Gorge case studies are not important -- they clearly are. However, tools and approaches that have worked in one place may have a great deal to do with the political/economic/resource landscape rather than merits intrinsic to those tools and approaches. Analysis of this kind is lacking in the report.

B. Look at the Columbia River Salmon Recovery Programs

We strongly recommend broadening the report to consider what can be learned from the effort to address Columbia River salmon issues. This effort seems to contain the closest set of problems -- both ecologically and institutionally -- to those faced in the Bay-Delta situation. In addition, as a multi-year, multi-billion dollar effort aimed at restoring salmon, it has critical lessons to teach. The parallels are striking; in 1987, the parties established a "fish doubling" goal for themselves and fish populations actually declined. Most of the other efforts aimed at establishing self-sustaining populations of anadromous fish in the region have fallen wildly short of their goals as well. The primary culprits appear to be:

(1) lack of good recovery planning;
(2) dispersed authority, largely in the hands of dam operators; and
(3) reluctance to make major changes that would affect traditional water users.

It is essential that we understand what went wrong and what, if anything, has gone well in the Columbia system and that we put those lessons into practice in crafting the assurance package for CALFED.

Thank you for your consideration of our views. We look forward to working with you as these issues continue to develop.

Sincerely,

Cynthia Koehler
Save San Francisco Bay Association
on behalf of

Terry Young
Environmental Defense Fund

Betsy Reifsnider
Friends of the River

Gary Bobker
The Bay Institute

Richard Izmirian
California Sportfishing Protection Alliance

Barbara Salzman
Marin Audubon Society

Arthur Feinstein
Golden Gate Audubon Society

Peter Candy
Surfrider Foundation

Ann Notthoff
Natural Resources Defense Council

Jean Auer

Tara Mueller
Environmental Law Foundation

cc: CALFED Policy Team
CALFED Management Team